

1
2
3
4
5
6
7
8
9
10
11
12

**IN THE SUPREME COURT FOR THE
STATE OF ARIZONA**

KARI LAKE

Plaintiff/Appellant,

v.

KATIE HOBBS, *et al.*,

Defendants/Appellees.

No. CV-23-0046-PR

Court of Appeals
Division One

No. 1 CA-CV 22-0779
No. 1 CA-SA 22-0237
(CONSOLIDATED)

Maricopa County
Superior Court

No. CV2022-095403

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF DAVID MAST IN
SUPPORT OF KARI LAKE'S PETITION FOR SPECIAL ACTION**

RETRIEVED FROM DEMOCRACYDOCKET.COM

Ryan L. Heath, Esq. (036276)
HEATH LAW, PLLC
4022 E. Greenway Road, Suite 11 - 106
Phoenix, AZ 85032
(480) 432-0208
rheathesq@proton.me

Alexander Haberbusch, Esq.* (CA SBN 330368)
LEX REX INSTITUTE
444 West Ocean Boulevard, Suite 1403
Long Beach, CA 90802
Telephone No. (562) 435-9062
E-Mail: AHaberbusch@LexRex.org
**Pro hac vice motion to be filed*

1 Pursuant to Ariz. R. Civ. App. P. 16 and this Court’s inherent authority, proposed amicus
2 David Mast hereby moves for leave to file the attached brief, amicus curiae, in support of
3 Appellant Kari Lake. Mr. Mast has read the attached proposed brief. The attached brief has
4 been sponsored and paid for by Mr. Mast.
5

6 Ms. Lake has consented to the filing. On March 7, 2023, counsel for Appellees were
7 asked, via email, to provide their position regarding whether they would consent to the filing.
8 Attorneys for Appellee Katie Hobbs, for Defendant Secretary of State, and Maricopa County
9 Defendants have all responded indicating that they would not consent to this filing.
10

11 Mr. Mast is a voter in Maricopa County and a registered Independent. His interests are in
12 presenting the point of view of ordinary voters, as well as Arizonans who are not members of
13 either party, concerning the problems with election administration that occurred during the
14 November 2022 general election.
15
16

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 Absent consent of the Parties an appellate court may allow an amicus curiae brief if the
19 party “can provide information, perspective, or argument that can help the appellate court
20 beyond the help that the parties’ lawyers provide.” Ariz. R. Civ. App. P. 16(b)(1)(c)(iii).
21
22

23 The contentious nature of this bipartisan dispute, wherein public officials from the
24 Maricopa County Board of Supervisors have a personal liability interest in minimizing the many
25 problems that occurred on their watch, threatens to erase interests of ordinary Arizona voters
26 and, specifically, non-partisan Independents like Mr. Mast—a group of registered voters that
27
28

1 constitutes the second largest in the State of Arizona behind the Republican party.¹ Should Mr.
2 Mast be permitted to appear as amicus, he shall advocate for a common-sense outcome, based
3 on indisputable facts, that promotes the rule of law in the State of Arizona.
4

5 Firstly, Mr. Mast will argue that Ms. Lake’s challenge to Maricopa County’s signature
6 verification procedures was timely pled because she is challenging undisputed acts of
7 misconduct that occurred during the voting process, as opposed to alleged acts of misconduct
8 that occurred before votes were cast, so her claim is substantive as a matter of law.
9

10
11 Second, Mr. Mast will argue that Maricopa County’s failure to do logic and accuracy
12 testing, Election Day irregularities, defects in chain of custody, and failure to properly verify
13 signatures constitutes “misconduct” on the part of Maricopa County Officials.
14

15 Mr. Mast will also argue that, under Arizona’s clear “uncertainty” standard, each of the
16 uncontested acts of misconduct by Maricopa County Officials, even if considered alone, compel
17 this Court to set aside the gubernatorial election results from Maricopa County as a matter of
18 law.
19

20
21 Mr. Mast will next assert that Election Day irregularities exacerbated the extent of
22 uncertainty caused by Maricopa County Official’s handling of mail-in-ballots, which further
23 supports the basis for setting aside of the gubernatorial election results from Maricopa County as
24 a matter of law.
25

26
27
28

¹ See Ariz. Secretary of State, *Voter Registration Statistics – November 2022 (General Election)* -
<https://azsos.gov/elections/results-data/voter-registration-statistics> (Last accessed March 9, 2023).

1 Finally, Mr. Mast will argue that, irrespective of whether the alleged acts of misconduct
2 by Maricopa County are deemed “non-technical,” this Court should nevertheless rule in favor of
3 Ms. Lake because Maricopa County’s handling of the 2022 general election violated her clearly
4 established fundamental rights as a voter, secured by both the Arizona and United States
5 Constitutions.
6

7 8 **CONCLUSION**

9
10 Mr. Mast, as an Independent and ordinary voter, can provide perspective that the
11 politicians litigating this case cannot. Because of his unique interests, Mr. Mast has an incentive
12 to more fully develop the arguments to which the parties, their counsel, and the courts gave
13 limited treatment below. For these reasons, this Court should grant him leave to file the attached
14 amicus brief pursuant to Ariz. R. Civ. App. P. 16(b)(1)(c)(iii).
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF COMPLIANCE**

2
3 Pursuant to Ariz. R. Civ. App. P. 4 and 6, I certify that the attached brief uses 14-
4 point font in Times New Roman, is double-spaced, and contains approximately 8,422
5 words.
6

7
8 Dated March 16, 2023

9 Respectfully submitted,

10 /s/ Ryan L. Heath

11 Ryan L. Heath

12 HEATH LAW, PLLC

13 4022 E. Greenway Road, Suite 11 - 106

14 Phoenix, AZ 85032

15 (480) 432-0208

16 rheathesq@proton.me
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to Ariz. R. Civ. App. P. 6, the undersigned hereby certifies that the attached Motion, the accompanying Brief, and all relevant attachments mentioned therein were electronically served on the parties via TurboCourt on March 16, 2023.

Dated March 16, 2023

Respectfully submitted,
/s/ Ryan L. Heath
Ryan L. Heath
HEATH LAW, PLLC
4022 E. Greenway Road, Suite 11 - 106
Phoenix, AZ 85032
(480) 432-0208
rheathesq@proton.me

RETRIEVED FROM DEMOCRACYDOCKET.COM